

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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CHRISTOPHER S. HOSKINS et al.,

Plaintiffs and Respondents,

v.

JIM HOGSTAD et al.,

Defendants and Appellants.

C049379

(Super. Ct. No.  
04AS04242)

ORDER MODIFYING OPINION  
AND DECERTIFYING  
OPINION FOR PUBLICATION  
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on February 21, 2006, not be certified for publication and that the opinion be modified as follows:

1. On page 1, the first sentence, the word "former" should be inserted between the words "under and "Code" so that the sentence reads:

Defendants Jim Hogstad and Mike Maurice, Sr.,  
(defendants) appeal the trial court's order  
denying their motion to strike the complaint under  
former Code of Civil Procedure<sup>1</sup> section 425.16.

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<sup>1</sup> All further statutory references are to the Code of Civil Procedure unless otherwise indicated.

2. One page 1, at the end of footnote 1, add the following:

The Legislature amended section 425.16 effective October 5, 2005. (Stats. 2005, ch. 535, § 1.) This case, however, is governed by the former version of the statute, and all references to the statute are to the former version unless otherwise noted.

3. One page 3, the first full paragraph, beginning, "In opposition to," the word "requires" should be replaced with the word "required" so that the sentence (paragraph) reads:

In opposition to the motion, the Hoskins argued that the motion was improper because it failed to comply with section 425.16, subdivision (f), which required that the hearing date for the motion be set "not more than 30 days after the service of the motion, unless the docket conditions of the court require a later hearing."

4. The paragraph commencing at the bottom of page 5 with "Section 425.16, subdivision (f)" and ending at the top of page 6 with "a later hearing" is modified to read as follows:

At the time applicable to this case, section 425.16, subdivision (f) stated, "The special motion may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper. The motion shall be noticed for hearing not more than

30 days after service unless the docket conditions of the court require a later hearing."

5. On page 6, the first sentence of the last partial paragraph, beginning, "We reviewed," the acronym "FPPC" should be italicized.

6. On page 7, the first partial paragraph that ends with "scheduled hearing," add as footnote 3 the following:

Following the 2005 amendment, subdivision (f) of section 425.16 now provides that a motion under that section "shall be scheduled by the clerk of the court for a hearing not more than 30 days after the service of the motion unless the docket conditions of the court require a later hearing."

In making that amendment, the Legislature specifically stated that its intent was to overrule the decisions in *Decker* and *FPPC*.

(Stats. 2005, ch. 535, § 3.)

There is no change in the judgment.

BY THE COURT:

NICHOLSON, Acting P.J.

MORRISON, J.

ROBIE, J.